

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

KATEL A.,

Case No. 19-cv-0250 (JRT/KMM)

Petitioner,

v.

**REPORT AND
RECOMMENDATION**

KRISTJEN NIELSEN, et al.,

Respondents.

Katel A., a native and citizen of Benin, seeks a writ of habeas corpus requiring that he be released pending his removal from the United States by immigration authorities. On March 6, 2019, the respondents filed a response to Mr. A's petition, arguing that any challenge he raises to the custody determinations made during three separate bond hearings should be rejected as improper for a habeas corpus proceeding. Resp. to Pet., ECF No. 6. In addition to other issues raised with regard to Mr. A's length-of-detention claim, the respondents also argued that Mr. A's pre-removal order detention had not become unconstitutionally prolonged. *Id.* at 12–16. On July 11, 2019, the respondents filed a supplemental declaration indicating that Mr. A was ordered removed from the United States on May 1, 2019. Suppl. Pryd Decl., ECF No. 10. On October 15, 2019, Mr. A was removed from the United States to Benin on a charter flight. Second Suppl. Pryd Decl. ¶ 3 & Ex. A, ECF Nos. 14 & 14-1.

Because Mr. A sought release from custody and is now no longer in the custody of any respondent, the respondents contend that his petition is moot and should be

dismissed. ECF No. 13. The Court agrees. Mr. A's removal from the United States means that there is no longer any actual, ongoing case or controversy. "Article III of the United States Constitution limits the jurisdiction of the federal courts to actual, ongoing controversies." *Hayden v. Pelofsky*, 212 F.3d 466, 469 (8th Cir. 2000). Courts consistently conclude that when a petitioner in a habeas action such as this is removed from the United States and returned to his native country, there is no longer a live case or controversy because a court can no longer order the relief sought in the petition. *See, e.g., Hassan v. I.C.E.*, No. 13-cv-841 (PJS/LIB), 2013 WL 3974522, at *2 (D. Minn. Aug. 1, 2013) (Order adopting report and recommendation); *Mhanna v. U.S. Dep't of Homeland Sec. Citizenship & Immigration Servs.*, No. 10-cv-292 (JRT/LIB), 2010 WL 5141803, at *11–12 (D. Minn. Dec. 13, 2010). Mr. A is not in the custody of any of the respondents because he has been returned to Benin. Therefore, the Court cannot give Mr. A the relief he seeks in his petition—an order requiring immediate release pending his removal. No case or controversy remains, and this action is moot.

Accordingly, **IT IS HEREBY RECOMMENDED** that the Petition [ECF No. 1] be **DENIED AS MOOT** and this action be **DISMISSED**.

Date: October 28, 2019

s/Katherine Menendez
Katherine Menendez
United States Magistrate Judge